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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,131	07/11/2003	Daniel J. Tusavitz	DTZ-100US	4424
23122	7590	09/26/2005	EXAMINER	
RATNERPRESTIA			LE, TAN	
P O BOX 980			ART UNIT	
VALLEY FORGE, PA 19482-0980			PAPER NUMBER	
			3632	

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/618,131

Applicant(s)

TUSAVITZ, DANIEL J.

Examiner

Tan Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 and 10-18 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 is/are allowed.
- 6) ☒ Claim(s) 7 and 8 is/are rejected.
- 7) ☒ Claim(s) 19-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This is the second office action for serial number 10/618,131. This application contains 20 claims numbered 1-20. Claims 19-20 have been added. Claims 1-6 and 10-18 were withdrawn.

### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,095,533 to Balolia in view of US Patent No. 5,299,817 to Chang (or in view with US Patent No.4,700,959 to Lars).

Balolia discloses an adjustable mobile base (Figs. 1-6, for example) includes a set of movable deck pieces (68) each forming one of corners of the base, having an outer edge and providing a flat surface for supporting merchandise; a shoulder (between plates 66 and wheels) positioned at each corner of the base under and in support of a respective deck piece, each shoulder having opposing ends; a tubular leg extending from each of the opposing ends of each shoulder to the outer edge of the respective deck piece, further supporting the deck piece, and having a single hole (92); a dowel (42, 44, 46, 48) slidably received in each leg, each dowel having a projection engaging the hole of the leg in which the dowel is received; and a caster rotatably attached to each shoulder facilitating transportation of the base.

Balolia shows generally all that is claimed except for a single extended slot in each tubular leg.

Lars or Chang teaches each tubular leg having at least a single extended slot. One skilled in the art would have been motivated to use the extended slot of Lars or Chang for the hole of Balolia because Lars or Chang clearly teaches that in order to allow the projection to be slidably adjustable, an extended slot is necessary.

Regarding claims 8, Balolia in view of Lars or Chang each also shows the projection comprising a threaded fastener.

#### ***Allowable Subject Matter***

3. Claims 19-20 are objected to, but would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Claim 9 allowed

#### ***Response to Arguments***

4. Applicant's arguments filed 7/13/05 have been fully considered but they are not persuasive.

Regarding Applicant's arguments that none of the references of Balolia, Chang or Lars disclosed or suggested a "singled extended slot" as claimed by Applicant. The Examiner disagrees. Chang or Lars each does in fact teaches more than just a single extended slot (see Lars, 3, 4, 5) and (Chang, 11, 21, 121 for example). Thus the combination of Balolia in view of Chang or in view of Lars does in fact teach claim 7.

Note that although Balovia does not specifically teach each tubular leg having a single extended slot but does teach each tubular leg having a plurality of attachment holes that allow the tubular legs to be slidably adjusted to a desired position. These holes can be considered as an alternative equivalent structure because they perform the same function.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818. The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (571) 272-6788. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tan Le  
September 21, 2005



ANITA KING  
PRIMARY EXAMINER